

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

BOSTON, MA

CIVIL ACTION No.

Veronica Dyer, in her capacity as Administrator for )  
the Trustees of the Iron Workers District Council )  
of New England Pension, Health & Welfare, )  
Annuity, Vacation, Education, and other Funds, )  
Plaintiff (“Ms. Dyer”), )

v. )

U.S. Department of Veterans Affairs, )  
Defendant. )

**COMPLAINT**

**COMPLAINT FOR INJUNCTIVE RELIEF**

1. Plaintiff seeks injunctive relief in accord with the Freedom of Information Act (“FOIA”), 5 USC § 552, ordering Defendant the United States Department of Veterans Affairs to produce payroll documents regarding a project at the VA Medical Center, 940 Belmont St., Brockton, MA (the “Project”).

**JURISDICTION AND VENUE**

2. This Court has jurisdiction under 5 USC § 552(a)(4)(B).
3. Venue is proper in this District as Complainant maintains an office in Boston, Massachusetts, and the Project is located in Brockton, Massachusetts.

**PARTIES**

4. Ms. Dyer administers the Benefits Funds, which were formed in accord with 29 USC §§185, 1002 (1), (2) and (3), from their business office located at 161 Granite Avenue in Dorchester, MA, 02124, County of Suffolk.
5. The U.S. Department of Veterans Affairs (the “VA”) is a federal government agency with its principal address at 810 Vermont Avenue, N.W., Washington, D.C. 20420.

6. The VA is an agency within the meaning of 5 USC §552 (f).

#### FACTS

7. This appeal of a FOIA request is part of Plaintiff's attempt to recover monies owed to the Benefits Funds under the terms of a collective bargaining agreement ("CBA") by Greystone Iron Corp. ("Greystone"), or BR Steel, LLC ("BR Steel), its *alter ego*.
8. On December 19, 2018, Ms. Dyer, by her Attorney Mickey Long, sent a Freedom of Information Request to the VA. Exhibit A (FOIA Request).
9. In the FOIA Request, Ms. Dyer requested certified payroll records, daily records, any payment bond, contracts and subcontracts, and any Davis-Wage determinations relating to any activity of "Greystone" or "BR Steel."
10. On March 11, 2019, the VA responded to Plaintiff's FOIA request. Exhibit B (FOIA Response). In its FOIA Response, the VA provided Plaintiff with some documents but withheld others, claiming that the information contained in them fell under FOIA Exemptions 4 and 6 (5 USC §§ 552(b)(4) and (6)).
11. In relevant part to this complaint, the VA redacted hours worked each day by individuals, and the "Fringes" rate from the Davis Bacon Wage and Benefit rate sheet.
12. On March 21, Plaintiff filed an Appeal of the VA's decision, claiming that the hours worked by individuals and the "Fringes" rate were not exempt from disclosure. Exhibit C (Appeal of FOIA Denial).
13. The VA confirmed receipt of Plaintiff's appeal on March 22, 2019. Exhibit D (VA Confirmation).
14. More than 20 days have passed since the VA received Plaintiff's FOIA request, and the VA has not notified Plaintiff as to whether it will fully comply with her request. Thus,

under 5 USC §552(a)(6)(A) and 5 USC §552 (a)(6)(C), Plaintiff has exhausted the applicable administrative remedies with respect to her FOIA request.

15. Plaintiff has a right of prompt access to the requested records under 5 USC §552 (a)(3)(A) and the VA has wrongfully withheld the sought-after documents.

16. Hours worked do not reveal any personnel information protected under Exemption 6.

17. Information on fringe benefits under the Davis Bacon Act is legally mandated and available for public access and thus does not constitute information protected under Exemption 4.

#### COUNT ONE

##### Request for Injunctive Relief

18. Plaintiff restates all of the facts and allegations set forth in each of the Paragraphs above and by this reference incorporates them herein.

19. The VA has failed to comply with the FOIA statute by refusing to produce to Plaintiff information properly requested, in the public domain, and not subject to any of the exemptions stated in the statute.

20. This is a complaint for injunctive relief to order that the VA provide the Plaintiff's request in her Appeal for hours worked and the information on "Fringes" benefits.

#### **Demand for Relief**

**WHEREFORE**, Plaintiff respectfully demands that this Court:

1. Order Defendant to provide to Plaintiff the information on hours worked and "Fringes" wage information from the Davis Bacon Wage and Benefit sheets;
2. Award Plaintiff her costs and reasonable attorney's fees incurred in this action; and
3. Provide such other and further relief as the Court may deem proper and just.

Plaintiff, Ms. Dyer, in her capacity as  
Administrator for the Trustees of the  
Benefits Funds  
By her attorney,

/s/ Mickey Long  
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